

Message Text

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FOR USDEL TO ICAO CONFERENCE

E.O. 11652: N/A

TAGS: EAIR, UK

SUBJECT: U.S.-U.K. CIVAIR NEGOTIATIONS

FOLLOWING IS TEXT OF AMBASSADOR BOYD IN DISCUSSING THIS
MORNING'S U.S. PRESENTATION ON TARIFFS. IT IS LABELED
U.S. RENEGOTIATION 19, DISCUSSION OF TARIFFS AND COM-
MISSIONS ARTICLES.

BEGIN TEXT. 1. COMMISSIONS. WE HAVE CAREFULLY CON-
SIDERED U.K. RENEGOTIATION 28 (SHOVELTON STATEMENT ON
COMMISSION RATES, 5 APRIL 1977) IN WHICH YOU REITERATE
YOUR VIEW THAT COMMISSION RATES SHOULD BE CONTROLLED
ALONG WITH TARIFF RATES. WE APPRECIATE YOUR VIEWS, BUT
FOR REASONS WHICH WE HAVE PREVIOUSLY SPELLED OUT AT LENGTH,
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THIS DELEGATION IS SIMPLY NOT IN A POSITION TO NEGOTIATE
THE ISSUE OF CONTROLLING THE RATES WHICH U.S. AIRLINES PAY
TO U.S. AGENTS. WE ARE, HOWEVER, PREPARED TO MAKE CLEAR
IN THE COMMISSIONS ARTICLE THAT THE LEVEL OF COMMISSIONS
PAID WITH RESPECT TO AIR TRANSPORTATION SALES WITHIN THE
TERRITORY OF A CONTRACTING PARTY SHALL BE SUBJECT TO THE
LAWS AND REGULATIONS OF THAT CONTRACTING PARTY. THUS, AS

TO SALES MADE WITHIN THE U.K., WE ARE PREPARED TO AFFIRM YOUR RIGHT TO REGULATE COMMISSION RATES. PARAGRAPH 2 OF THE REVISED (COMMISSIONS ARTICLE IS INTENDED TO ACCOMPLISH THIS RESULT.)

2. DISCRIMINATORY RATES. WE HAVE CONSIDERED YOUR OBJECTIONS TO PARAGRAPH 11 OF U.S. RENEGOTIATION 6 WHICH PROVIDES THAT EITHER CONTRACTING PARTY MAY UNILATERALLY REMOVE DISCRIMINATIONS AS AMONG ITS OWN CITIZENS AND LOCALITIES. IN THE INTEREST OF REMOVING THIS BONE OF CONTENTION FROM THE NEGOTIATIONS, WE HAVE DELETED THE PROVISION IN REVISION III. THE RIGHT TO PREVENT DISCRIMINATORY TARIFFS FROM COMING INTO EFFECT WOULD REMAIN SUBJECT TO THE GENERAL PROVISIONS REGARDING PROPOSED NEW TARIFFS; AND EITHER CONTRACTING PARTY WOULD, OF COURSE, ALWAYS BE FREE TO RAISE THE QUESTION OF EXISTING DISCRIMINATIONS UNDER THE CONSULTATION PROVISIONS OF THE BILATERAL. IN ORDER TO MAKE CLEAR, HOWEVER, THAT DISCRIMINATORY RATES ARE NOT TO BE FAVORED, WE HAVE ADDED AN ANTI-DISCRIMINATION CLAUSE TO PARAGRAPH 2.

3. TIME LIMITS FOR AGREEMENTS AND TARIFFS. WE HAVE CONSIDERED THE TIME LIMITS SET FORTH IN REVISION II IN THE LIGHT OF YOUR COMMENTS. WITH RESPECT TO TARIFF PROPOSALS, WE AGREE THAT THE NOTICE OF DISSATISFACTION PERIOD OF 45 DAYS AFTER TARIFF FILING IS UNNECESSARILY LONG, AND WE HAVE SHORTENED THAT PERIOD TO 30 DAYS. WITH RESPECT TO AGREEMENTS, WE ARE VERY CONCERNED ABOUT REQUIRING FILINGS MORE THAN 90 DAYS IN ADVANCE OF THE EFFECTIVE DATE. SINCE LIMITED OFFICIAL USE

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THE AGREEMENTS MUST BE ACCOMPANIED BY ECONOMIC JUSTIFICATION, COMPLIANCE WITH EVEN A 90-DAY FILING PERIOD WILL REQUIRE THAT IATA REACH AGREEMENT APPROXIMATELY 110 DAYS BEFORE THE INTENDED EFFECTIVE DATE. WE ARE STILL OF THE VIEW THAT, ALL THINGS CONSIDERED, A 90-DAY FILING DATE COUPLED WITH A 60-DAY "BEST EFFORTS" COMMITMENT TO ACT UPON AGREEMENTS REPRESENTS THE BEST BALANCE OF ALL OF THE CONFLICTING CONSIDERATIONS, AND WOULD CONSTITUTE A VAST STEP FORWARD FROM THE PRESENT SITUATION. HOWEVER, AS I INDICATED FRIDAY, WE WILL ACCEPT THE 105 DAY FILING DATE IF YOU CANNOT BE PERSUADED THAT 90 DAYS IS SUFFICIENT.

4. CURRENCY. WHILE WE WOULD PREFER TO HAVE THE ISSUE OF CURRENCY SURCHARGES TIED DOWN MORE PRECISELY IN THE TARIFFS ARTICLE ITSELF, WE ACCEPT YOUR SUGGESTION THAT THE MATTER BE HANDLED BY A MEMORANDUM OF UNDERSTANDING. WE PROPOSE THAT THE MEMORANDUM REFLECT A COMMITMENT BY EACH CONTRACTING PARTY TO EXERCISE ITS BEST EFFORTS TO MAINTAIN THE SURCHARGES APPLICABLE TO PASSENGER FARES GENERALLY AT

NO LESS THAN THE PERCENTAGE OF PARITY WHICH NOW EXISTS,
AND WITHIN A PERIOD OF NO MORE THAN 180 DAYS, TO BRING
THE SURCHARGES FOR CARGO AND APEX UP TO THE GENERAL
PASSENGER LEVEL.

5. MISCELLANEOUS AMENDMENTS. REVISION III REFLECTS OTHER
MINOR CHANGES IN LANGUAGE. IN ADDITION, WE HAVE ADDED TO
PARAGRAPH 4, WHICH DEALS WITH FIFTH FREEDOM TARIFFS, THE
PROVISO CONTAINED IN PARAGRAPH 8 DEALING WITH EQUAL
TREATMENT OF CARRIERS AS REGARDS ACCESS TO TARIFFS.

6. ADDENDUM ON IMPLEMENTATION OF TARIFFS ARTICLE. WE
HAVE NO OBJECTION, IN PRINCIPLE, TO EXPANDING THE FIRST
PARAGRAPH OF U.S. RENEGOTIATION 7 ALONG THE GENERAL LINES
OF U.K. RENEGOTIATION 29. WE ALSO WOULD ACCEPT YOUR PRO-
POSAL THAT THE FIRST CONFERENCE UNDER THE ADDENDUM TAKE
PLACE NOT LATER THAN 180 DAYS AFTER THE AGREEMENT COMES
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INTO EFFECT 9PARAGRAPH 2, U.K. RENEGOTIATION 29). WE DO,
HOWEVER, HAVE DIFFICULTY WITH COMMITTING OURSELVES TO
YOUR PASSENGER SEAT FACTOR RANGE CONCEPT. IN ADDITION,
WE ARE NOT CERTAIN THAT WE FULLY UNDERSTAND YOUR DEFINI-
TION OF "ECONOMIC RETURN", AND BELIEVES THAT SUCH MATTERS
ARE BEST LEFT TO THE RATE STANDARDS GROUP. WE ALSO
BELIEVE THAT IT IS PREMATURE TO BE DEALING AT THIS TIME
WITH SUCH ISSUES AS RATE STANDARDS TO BE APPLIED IN THE
CASE OF NEWLY INAUGURATED ROUTES. FINALLY, WE DO NOT
THINK IT IS APPROPRIATE FOR THE DOCUMENT TO CONTAIN
LANGUAGE PURPORTING TO REQUIRE THAT THE BOARD TAKE
ACCOUNT OF AGREED INTERIM IN ITS NORTH ATLANTIC FARE
INVESTIGATION. END TEXT.
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